

**IN THE ST. MARY'S COUNTY BOARD OF APPEALS**

**VAAP NUMBER 18-132-015**

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**GUY PROPERTIES, LLC**

**THIRD ELECTION DISTRICT**

**DATE HEARD: AUGUST 27, 2020**

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**ORDERED BY:**

**Mr. Hayden, Mr. Brown, Ms. Delahay,  
Mr. Miedzinski, and Mr. Richardson**

**ENVIRONMENTAL PLANNER: STACY CLEMENTS**

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**DATE SIGNED: September 10, 2020**

### **Pleadings**

Guy Properties, LLC (“the Applicant”) seeks a variance (VAAP #18-132-015) to modify the required 65-foot Type B front buffer yard, 35-foot Type C side buffer yard, and to disturb the stream buffer to replace an existing commercial building with a new commercial building.

### **Public Notification**

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County, on August 7, 2020 and August 14, 2020. The hearing notice was also posted on the Property. The file contains the certification of mailing to all adjoining landowners, including those located across a street. Each person designated in the application as owning land that is located within two hundred feet of the subject property was notified by mail, sent to the address furnished with the application. The agenda was also posted on the County’s website on August 19, 2020. Therefore, the Board finds and concludes that there has been compliance with the notice requirements.

### **Public Hearing**

A public hearing was conducted at 6:30 p.m. on August 27, 2020 at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically, and the following was presented about the proposed variance requested by the Applicants.

### **The Property**

The Applicant owns the subject property located at 23490 Budds Creek Road, Clements, Maryland (the “Property”). The Property is split between the Village, Mixed Use (“VMX”) and Rural Preservation District (“RPD”) zoning districts with a Resource Conservation Area (“RCA”) Overlay and is identified on Tax Map 31, Grid 3 Parcel 32.

### **The Variance Requested**

The Applicants request a variance from Schedule 63.3.b and § 71.4.2.a(2) of the St. Mary's Comprehensive Zoning Ordinance ("CZO") to modify the required 65-foot Type B front buffer yard, 30-foot Type C side buffer yard, and to disturb the stream buffer to replace an existing commercial building with a new commercial building.

### **The St. Mary's County Comprehensive Zoning Ordinance**

Pursuant to Schedule 50.4 of the CZO, Use Type 61, "Motor Vehicle Maintenance Service, Major," is defined as:

Repair of automobiles, trucks, motorcycles, tractors, motor homes, and recreational vehicles, including the sale, installation, and servicing of related equipment and parts. This classification includes towing, engine repair, body and fender shops, vehicle painting, wheel repairs, tire sales and installation and/or repair of heavy trucks or construction vehicles, but excludes vehicle dismantling or salvage, tire re-treading and recapping.

Includes facilities providing services for major repair and maintenance of recreational or commercial watercraft and marine engines. (Use may be accessory to a marina or boatyard use).

*Id.*

A "Motor Vehicle Maintenance Service, Major" is considered a high intensity use for purposes of determining buffer requirements. *Id.* Under CZO Schedule 63.3.b, a proposed high-intensity commercial use adjacent to a "Public Road right-of-way having a Major Collector or higher road classification" requires a minimum 65-foot Type B buffer yard. Where a proposed high-intensity commercial use is adjacent to residential low-intensity, it requires a minimum 30-foot Type C buffer yard. *Id.*

Under Schedule 63.3.a, a Type B buffer is a minimum of 65 feet in depth and requires 4 canopy trees, 5 understory trees, 22 shrubs, and 11 evergreens and shrubs, all planted every 100